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The League of Nations and Freedom of the Seas

BY

SIR JULIAN CORBETT

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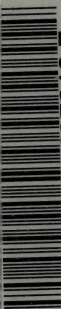
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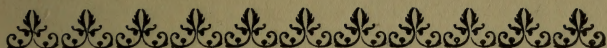
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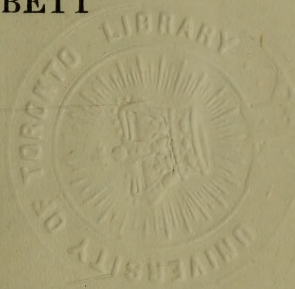


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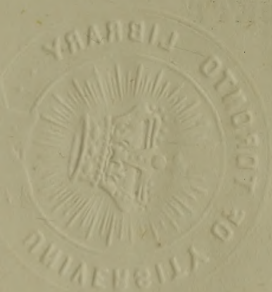
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HUMPHREY MILFORD

1918



THE LEAGUE OF NATIONS AND FREEDOM OF THE SEAS

THE conception of a League of Nations in the shape it has taken during the past few years is marked by a feature which distinguishes it from all its predecessors. For the first time it appears to be assumed that Freedom of the Seas, or, in other words, the abolition of belligerent rights afloat, is an essential condition of such a League, and that the two ideas are inseparable, an assumption which carries the scope of recent proposals distinctly beyond the limits of those to which the seventeenth and eighteenth centuries gave birth.

None of those schemes ever gathered strength to rise from the ground, yet none of them ever burdened itself with such a load as those of the present day are expected to carry. Indeed Freedom of the Seas in the ordinary acceptance of the term is more than a load. A frank examination of what it connotes will show that it must be a spoke in the wheels which in all probability would prevent any conceivable machinery of a League from acting with effect. Once formed, a League of Nations may be charged with the definition of belligerent rights at sea and with control

of their exercise, but without them it cannot be an effective instrument for peace.

Striking as the new development is it has received too little attention. It has been allowed to slip in almost without comment, and few, if any, of those who of late have been publicly discussing the subject have stopped to inquire why the new feature has intruded itself at this particular juncture. Its credentials are not asked for. Yet obviously its sudden appearance needs explanation if we are to obtain a clear understanding of the trend of opinion as it exists to-day.

The explanation is not far to seek. A glance at the history of the whole movement reveals it at once. It is that the more recent development of the old idea of a League of Nations is the result of a fusion of two schools of thought. The older one, whose object was a league to prevent war, culminated in the Holy Alliance. The newer one is that which grew up after the failure of the Holy Alliance had led men to despair of finding a means for the prevention of war. The new school, whose harvest was the Declaration of Paris and the Geneva and Hague Conventions, sought the more modest goal of mitigating the horrors of war. It is to this school of thought and not to the older one that the idea of Freedom of the Seas belongs. It indeed represents the high-water mark of what may be called the Hague school. It is the creed of its most advanced and enthusiastic advocates.

Naturally these men were also among the most earnest and convinced advocates of the revived movement for a League of Nations. Their support was needed to give it life. The price of their support was the incorporation of their special policy in the new programme. The price was gladly paid; but, at first, it certainly was not measured. The failure to diagnose the full meaning of Freedom of the Seas, and the even deeper failure to penetrate the actualities of Naval Warfare, prevented men observing how far the two conceptions were incompatible, if not mutually destructive.

As every one knows, Freedom of the Seas is an expression very loosely used, and with many shades of meaning, but for practical purposes it is enough to fix its content, as conceived by those who imported it into the programme for a League of Nations. The moment we endeavour to do this we are confronted by a paradox. It is obvious that Freedom of the Seas can only relate to a state of war. In time of peace all seas are free. Since the middle of the nineteenth century, when the Baltic and Black Seas were finally thrown open to commerce, there has been no *mare clausum*, and except for such international regulations as have been agreed upon for the safety and facility of navigation, all men are free to pass the seas at their pleasure. It is only in relation to a state of war that there are any restrictions. If then a League of Nations can attain its object in preventing war the

question of Freedom of the Seas does not arise. As an article in the programme it is redundant and paradoxical.

The truth is that even the most devoted and sanguine advocates of a League of Peace realize that a complete extinction of war by that means is not to be expected. It is more than can be believed—at least until human nature has mellowed much farther—that all the nations of the earth will bind themselves never to go to war for any cause whatever, or entirely to abandon force as a means of defending themselves against attack. There must arise cases in which a League of Nations could not prevent war, and would not deem it just to prevent it; and it is presumably to meet such exceptional cases that Freedom of the Seas has become attached to the League of Nations. The intention doubtless is at once to mitigate the severity of the struggle as between the intractable belligerents and prevent the contest interfering with those who are no party to it. If this were the end of the proposed restriction nothing but good could come of it, and it would in no way be incompatible with the active existence of a League of Nations; but we have only to examine the actualities of Naval Warfare and the effect which Freedom of the Seas would have upon them to see that it is very far from the end. Its effect would reach much farther.

As used by its most pronounced advocates, Freedom

of the Seas denotes the abolition of the right of capturing private property afloat. They would deny to belligerents not only the admitted right to capture neutral property under the law of blockade and contraband, but would also make the trade of the belligerents equally immune, either altogether or in so far as it was not contraband—that is to say, that no matter how fiercely navies contend peaceful merchants and fishermen shall be free to go about their business as though no war were in progress.

What such a revolution would mean to Naval Warfare is clearly not recognized, presumably because of the obscurity which for landmen has always surrounded it. No such curtailment of belligerent rights has ever been suggested for the land. It is obvious to every one that if in time of war peaceful merchants and husbandmen were allowed to go their way unmolested by requisitions and free to pass where they would, armies could obtain no results. Even if battles could be fought at all, they could lead to nothing. Battles are fought not for their own sake or merely to destroy the enemy's forces. Their ultimate object is the power which the destruction of the enemy's means of resistance gives for so paralysing his national life that he has no choice but to submit. If non-combatants and private property were immune from interference the nation could not be coerced nor the fruits of victory garnered.

With the less familiar contests on the sea, this has

never been so self-evident. To the great majority of landsmen, Naval Warfare seems a far-off struggle in which fleets contend in defence of their coasts and cruisers prowl for booty. It is not generally understood that fleets exist mainly to give those cruisers liberty of action against the enemy's commerce, nor that, unless the cruisers can push their operations so far as actually to choke the enemy's national life at sea, no amount of booty they may get will avail to bring the war to an end. It is only by the prevention of enemy's commerce that fleets can exercise the pressure which armies seek, in theory or practice, to exercise through victories ashore; and it is only by the capture and ability to capture private property at sea that prevention of commerce can be brought about. Without the right to capture private property, Naval battles become meaningless as a method of forcing the enemy to submit. Without that right a Naval victory can give nothing but security at home and the power of harrying the enemy's undefended coasts—a form of pressure which no one would care to sanction in these latter days.

It comes then to this—that if Freedom of the Seas is pushed to its logical conclusion of forbidding altogether the capture and destruction of private property at sea, it will in practice go far to rob fleets of all power of exerting pressure on an enemy, while armies would be left in full enjoyment of that power. The balance of Naval and Military power, which has

meant so much for the liberties of the world, would be upset, and the voice of the Naval Powers would sink to a whisper beside that of the Military Powers. If this is the forbidding situation to which a League of Nations is to lead—and there is no avoiding it if it is to be clogged with full Freedom of the Seas—how can it be expected that the Great Naval Powers will consent to become parties to it? Yet it is amongst those Powers that are found the most weighty and convinced advocates of a League of Nations. Without their cordial support such a League can never be formed, and that is one reason why, if we persist in coupling the League with Freedom of the Seas, we lay upon it a load it can never lift.

But it is not the only reason. For even if we assume that the League could be formed with this difficult condition attached to it, it would still find itself deprived of the most effective means of attaining its end. All schemes for a League of Nations contemplate some form of sanction by which recalcitrant Powers can be coerced, and of all these sanctions the one that is at once the most readily applied and the most immediate and humane in its action is to deny to the offender the Freedom of the Seas, to pronounce against him a sea interdict. To kill, or even seriously to hamper, a nation's commercial activity at sea has always been a potent means of bringing it to reason, even when national life was far less dependent on sea-borne trade than it is now. At the present time,

when the whole world has become to so large an extent possessed of a common vitality, when the life of every nation has become more or less linked by its trade arteries with that of every other, the force of an oecumenical sea interdict has become perhaps the most potent of all sanctions. It is, moreover, one that can be applied without inflicting the inhumanities which other forms of coercion entail. For a League, therefore, whose object is to make an end of the inhuman practice of war it is a sanction which it would be folly to deny itself. Yet if absolute Freedom of the Seas is to be a fundamental article of its constitution that sanction cannot be applied. There would still, of course, remain the sanction of non-intercourse, but without the full sea interdict it would lose more than half its force, and often be too slow and weak in its action to be effective. In too many cases the only trustworthy sanction would still be open war, in which armies alone could bring vital pressure to bear.

To bring the truth of this view home to those who are unfamiliar with the mystery of sea-power is no easy task. To many it will seem to be no more than an obscurant clinging to the past with which they are resolved to break; and naturally enough, when we remember how often opposition to human progress is little else. But in this case the charge of mere obscurantism will not hold. The latest expressions of considered opinion are too weighty and too

sagacious to be so easily dismissed. The reality of the objection to fettering a League of Nations with absolute Freedom of the Seas has recently been recognized by a high authority whom no one can suspect of obscurantism. President Wilson, in his original pronouncement for a League of Nations, described his aim as 'a universal association of nations to maintain inviolate the security of the highway of the seas for the common unhindered use of all the nations of the world'. The high seas were to be open to all, in war as in peace, at all times and under all conditions. But that was in the early days of the war, when men had not yet had driven home to them what sea-power actually meant for the cause of peace and freedom and for the punishment of international criminality. In his message to Congress delivered on January 8, 1918, his attitude was profoundly modified. He then took occasion to utter an implicit warning that the original position of the promoters of a League of Nations which he had voiced on the previous occasion was incompatible with their aim. The substance of the message was a Peace programme, and its second article provided for 'absolute freedom of navigation upon the seas outside territorial waters alike in peace and in war, *except as the seas may be closed in whole or in part by international action for the enforcement of international covenants*'. The declaration is perfectly clear. The official policy of the United States is that the old belligerent rights at

sea must be retained as essential to the executive ability of the League.

Obviously it must be so. For if those rights were abolished the Sea Powers as such could do nothing to enforce the will of the League. The executive force would lie almost entirely with the Military Powers, and the result of such unequal executive capacity cannot be contemplated with equanimity. It is too well known that the weight of a voice in the council chamber is not determined by reason alone, but in a much higher degree by the force behind it. The Naval Powers, bound hand and foot with the Freedom of the Seas, could speak, but they could not act, and inevitably the councils of the League would be dominated by the Military Powers. Is it credible that in the existing state of human progress a League of Nations under such conditions could make for the sanctity of covenants, the rights of small nations, and the peace of the world? Clearly it is not, and no less clear is it that if we are in earnest for a League of Peace we must concentrate on that end, and not dissipate energy in trying to achieve a wholly distinct aim at the same time. To strive for a League of Peace is to strive to prevent war; to strive for Freedom of the Seas is to admit war and strive to mitigate its terrors. Let us cease to confuse the two ends. Let us determine which line of endeavour we mean to follow, and pursue it with singleness of purpose and undivided effort. It will not be easy. It is to the

interest of the Military Powers to confuse the two tracks. They will, undoubtedly, use every device to keep them confused, for only by fostering the unhappy confusion which well-meaning men have hastily introduced can they destroy the balance between Naval and Military Powers, and so become the arbiters of the destinies of their weaker neighbours.

Above all should these smaller nations beware of putting themselves in line on this question with the Military Powers. The temptation is great. Their sufferings as neutrals during the present war have been so severe that their tendency is to snatch at the first means that seems to promise relief in the future. Their troubles are directly traced to the extension of belligerent interference upon the sea to which new developments in war conditions have inevitably led, and it is naturally in Freedom of the Seas they see the only remedy. But in truth their sufferings at sea are only a symptom of the underlying cause. The fundamental difficulty is that the vitality of nations has become so much a common vitality that no nation can fully enjoy a state of peace while other nations are at war. Neutrality as it formerly existed has ceased to be possible, and Freedom of the Seas would be only an alleviation, not a cure. The only real remedy is a League of Nations which would prevent war, but a League of Nations could not permit neutrality as a right—any more than by the English common law a citizen had the right to stand aside when

a criminal was being pursued. Except in case of special dispensation all would have to join in enforcing the sea interdict, and all would be in a state of war with the recalcitrant Power.

Whether, then, a League of Nations were formed or not small nations would not see the end of suffering or sacrifice, even if it were possible by a stroke of the pen to abolish so old and well-established a practice as capture at sea. On the other hand, if no League could be formed, or, being formed, could not be made effective, their condition would be more precarious than ever. For without belligerent rights at sea the Naval Powers would be without means to protect them, and they would be at the mercy of the Military Powers with no one to whom they could turn in time of trouble.

For the Minor Powers there is only one escape from the miseries of war, and that is an effective League of Nations. The policy which, in common with all men of goodwill, they must pursue is to see it accomplished, to remove everything that is likely to prove a stumbling-block, and to permit nothing which may cripple its vigour when it comes to life. The seas our ship will have to pass are stormy and full of shoals, and of this we may be sure, there is little hope of her avoiding wreck if she is made to labour with this perilous deck-load of Freedom of Seas. If it is our real desire to bring her safely to port it must be jettisoned—and the sooner and more completely it is done the better.

Only in this way can we cease to confuse the issue. The all-important end is to get a League into being. Until it is a living fact we cannot tell what form it will take or how much of humanity it will embrace, and until we know these things we cannot tell how far the preservation of belligerent rights at sea, or to what extent their control by the League, will make for the success of the Great Cause.

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